



**PLANNING BOARD**

Linda K. Hamlin, Chairman  
Steven A. Heikin, Clerk  
Robert Cook  
Blair Hines  
Sergio Modigliani  
Matthew Oudens  
Mark J. Zarrillo

# Town of Brookline Massachusetts

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**BROOKLINE PLANNING BOARD HEARING MINUTES  
ON WARRANT ARTICLES  
Selectmen's Hearing Room, Sixth Floor, Brookline Town Hall  
April 7, 2016 – 7:30 p.m.**

**Board Present:** Linda Hamlin, Steven Heikin, Robert Cook, Blair Hines,  
Sergio Modigliani, Matthew Oudens, and Mark Zarrillo

**Staff Present:** Polly Selkoe, Maria Morelli

Chair Linda Hamlin called the meeting to order at 7:40 pm.

**ANR Plans**

**83 Leicester Road**

Linda Hamlin recommended endorsement of the ANR plan for 83 Leicester Road.  
Robert Cook seconded the motion.

**Voted 7-0** The Board endorsed the ANR plan for 83 Leicester Road.

**141 Arlington Road**

Linda Hamlin recommended endorsement of the ANR plan for 141 Arlington Road.  
Robert Cook seconded the motion.

**Voted 7-0** The Board endorsed the ANR plan for 141 Arlington Road.

**ZONING AMENDMENT WARRANT ARTICLES**

**Warrant Article 12: Increasing side yard setbacks in single-family districts**

Polly Selkoe introduced the proposal.

Petitioner Robert Murphy, 18 Sheafe Street, described the reason for the proposal. In his opinion, rapid and oversized development in Brookline needs to be curtailed. He proposes increasing the setback requirements for side yard by 33% to increase what he described as open space.

Sergio Modigliani asked for some examples. Mr. Murphy referred to subdivisions on Risley and Allandale Roads. Mr. Modigliani responded that the subdivisions are driven by lot area and floor-area ratio. Increased side yard setbacks would not minimize the bulk of new projects, except that the dwellings might be much

narrower. In addition, Mr. Modigliani observed, although the proposal is intended to target new construction, the consequences of the changes affect existing developments, which would be rendered non-conforming. Mr. Murphy thought that existing properties would be grandfathered. Mr. Modigliani responded that the proposed additions on non-conforming lots will increase the Board of Appeals caseload. Brookline is already heavily developed; existing properties will be greatly burdened by the change.

Linda Hamlin noted that the intent of the petitioner's proposal is honorable; however, changing the side yard setbacks is not the right mechanism. The FAR committee is looking at the very problem Mr. Murphy wishes to address. The committee has found that about 25 new homes are built annually in Brookline, which is not an overwhelming rate. The setback changes would have huge implications on existing properties. Other aspects of the bylaw need attention, such as the number of parking spaces required.

Polly Selkoe noted that the Attorney General rejected a previously proposed amendment that distinguished between new and existing developments. In addition, when an amendment is advertised, an otherwise as-of-right project is considered potentially non-conforming, which means its construction is either delayed or constructed at-risk.

Mark Zarrillo asked for Mr. Murphy's definition of open space. "Where one would walk," was Mr. Murphy's response. Mr. Zarrillo felt that Mr. Murphy was referring to viewsheds and neighborhood character not setbacks. Mr. Zarrillo recommended that he consider another mechanism, such as an overlay district to conserve neighborhood character. Ms. Hamlin added the neighborhood conservation district can be controversial and require the neighborhood to sign off on that proposal. Ms. Selkoe added that such a proposal would require a majority vote at Town Meeting; it is not a zoning bylaw. Mr. Murphy stated that he is open to suggestions to improve the proposal.

Steven Heikin added that he was sympathetic to Mr. Murphy's concerns, but his proposal is impractical.

Ms. Hamlin noted that floor-area ratio is the key issue and that this problem affects two-family districts more than the single-family districts.

The chair asked if members of the public wished to speak. No one responded.

Ms. Hamlin read the entirety of the Planning Board's draft opinion. In summary, the Board's recommends no action on Warrant Article 12.

**Linda Hamlin made a motion to recommend No Action on Warrant Article 12, side yard setbacks. Robert Cook seconded the motion.**

**Voted 7-0 The Planning Board voted to recommend No Action on Warrant Article 12, side yard setbacks.**

### **Warrant Article 13: Timely notice by developers of major impact projects**

Polly Selkoe described the proposal. Citizen petitioner Ernest Frey, explained the reason for the proposal.

The seven-day advance notice for major impact projects corresponds to the Town's current notice policy. Mr. Frey emphasized that the proposal applies to only major impact projects and would enable Town Meeting members in abutting precincts to be informed as well.

Linda Hamlin complimented Mr. Frey for offering his solution.

Steven Heikin asked if requiring delivery was practical. Ms. Selkoe responded that delivery could mean via email, and that this policy was consistent with other notice requirements.

#### **Public Comment**

Regina Frawley, Russett Road, was supportive of the proposal.

**Linda Hamlin made a motion to recommend supporting Warrant Article 13, timely notice, with recommended changes.**

**Robert Cook seconded the motion.**

**Voted 7-0 The Planning Board voted to recommend Favorable Action on Warrant Article 13, timely notice.**

### **TOWN BYLAW WARRANT ARTICLE**

#### **Warrant Article 11: Tree Protection**

Polly Selkoe described the proposal and noted that it is the same proposal that was considered but not passed in the early 2000s.

Citizen Petitioner Richard Murphy, 61 Baker Circle, explained that his purpose for proposing the article is to protect trees on both public and private property.

Steven Heikin noted other communities, such as Newton, that have similar regulations. He stated that the proposal has a loophole that would encourage indiscriminate clear-cutting of trees well in advance of submission of building applications.

Mark Zarrillo, a landscape architect, stated the American Association of Nurserymen has a guide that indicates the value of trees to be preserved, depending on their species and caliper. He felt that it is key to distinguish between a mature oak that lends a defining character to a site and weed trees that would be acceptable to remove. He considered this proposal a good start, however.

Blair Hines, also a landscape architect, referred to cases in Cambridge and Somerville where similar regulations have proved to be burdensome. Like the previous side yard setback proposal, this article appears to target new development.

Linda Hamlin cautioned that the Town Arborist has expressed the concern that staff does not have the resources to enforce the regulation.

Robert Cook, a biologist and former Director of Arnold Arboretum, shared Mr. Hines' caution. He felt that the proposal was not the right mechanism.

Steven Heikin asked if street trees have protection. Ms. Selkoe responded that they do under the state statute.

Sergio Modigliani stated that blanket rules, such as the one proposed, could be in conflict with solar energy leases in which the shadow shed must be cleared through periodic pruning.

Mr. Zarrillo advocated for the proposal and stated that it can be perfected later.

Ms. Selkoe reiterated Ms. Hamlin's concern about staff resources. She noted that appeals cases require a landscaping plan and counterbalancing amenities--often new landscaping--under Section 5.43.

Ms. Hamlin stated that more research was needed, perhaps a list of trees species and calipers.

Steven Heikin thought the proposal could be a good tool but that it needed further study.

Matthew Oudens felt the amount of new construction is fairly low in Brookline, which overall has a good deal of green space; the proposal offers no sense of scale. Mr. Modigliani asked the petitioner if he could quantify how many trees have been lost in recent developments. The petitioner could not quantify that number.

**Public Comment:**

Regina Frawley, Russett Road, was opposed to the proposal. Trees close to foundations and gas lines can cause major damage and should be removed.

David Lescohier, Town Meeting Member in Precinct 11, was concerned about the adverse impact this regulation would have on solar energy goals. For example, the Town solar energy contractor, Blue Wave, has some concerns that the transfer station site is too shady for the panels the Town wants to install there.

**Linda Hamlin made a motion to recommend No Action Warrant Article 11, tree protection.  
Robert Cook seconded the motion.**

**Voted 5-1-1 The Planning Board voted to recommend No Action on Warrant Article 11, tree protection.**

**Warrant Article 9: Economic Development Department name change**

The Board felt that this issue was not within its purview and decided not to take make a recommendation on it.

**CIP Minutes**

The minutes of the February 23, 2016 and the February 25, 2016 meetings were approved.